

# THE COUNTY BULLETIN

## And Uniform Compliance Guidelines

### ISSUED BY STATE BOARD OF ACCOUNTS

Vol. No. 411

September 2018

#### **REMINDER OF ORDER OF BUSINESS**

##### **October**

- 8 Columbus Day - Legal Holiday (IC 1-1-9-1)
- 24, 25, 26 County Auditor's Fall Conference – Florence, Indiana
- 31 Last day to file quarterly unemployment compensation report with the Indiana Department of Workforce Development.

##### **November**

- 1 Last day for county auditor to certify to the office of judicial administration the amounts, if any, the county will be providing to the judges salary during the ensuing calendar year. (IC 33-38-5-6(b))
- 2 Last date for County Board of Tax Adjustment to complete its duties. (IC 6-1.1-17-9(a))
- 5 Election Day – Legal Holiday (IC 1-1-9-1)
- 9 Last day for paying second installment of taxes without penalty. Start preparing for settlement of second installment tax collections. (IC 6-1.1-37-10)
- 11 Veterans' Day - Legal Holiday. (IC 1-1-9-1)
- 20 Last day to report and make payment of State and County Income Tax withheld in the month of October to Indiana Department of Revenue.
- 22 Thanksgiving Day - Legal Holiday. (IC 1-1-9-1)

##### **December**

- 1 On or before this date, certify names and addresses of persons who have money due to them for salaries, wages or other reasons to County Treasurer, for determining if such persons owe delinquent taxes. (IC 6-1.1-22-14)  
  
Duties of the County Board of Tax Adjustment in Marion County and in a county that contains a second class city need not be completed until this date.
- 20 Last day to report and make payment of State Income Tax withheld in November to Indiana Department of Revenue.
- 25 MERRY CHRISTMAS!! Legal Holiday. (IC 1-1-9-1)

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**December (Cont')**

31      Review year-end duties.

Post and close all records completely and promptly.

The Auditor should balance with the Treasurer and verify the amount of cash in the Treasurer's office.

Cash Change Funds issued to any county officer whose term expires must be returned to the County General Fund.

**NEWLY ELECTED OFFICERS TRAINING**

The AIC in conjunction with the State Board of Accounts will provide training to the newly elected county officials on December 12, 13 and 14. The training will be held at the Hyatt Regency, One South Capital Avenue, Indianapolis.

**YEAR END DUTIES – OUTGOING OFFICIALS**

Outgoing county officials should completely post and balance their records before being turned over to their successors on January 1, 2019.

If there are any securities and undeposited cash in the office on December 31, they should be inventoried and/or counted and the new officer should sign a receipt in triplicate to be attested by the outgoing officer. One copy should be mailed to the State Board of Accounts with the outgoing officer and his successor each receiving a copy. Any cash change fund should be returned to the fund from which it was advanced on or before December 31. In the event one of the officers is not available, we suggest a disinterested third party be invited to witness the inventory or cash count and this individual should attest to the receipt.

We also suggest the outgoing officer prepare in triplicate an itemized inventory of equipment in the office at December 31 to be signed by the successor and attested to by the outgoing officer. Disposition of copies should be the same as outlined in the preceding paragraph.

As a matter of good business practice, the outgoing officer should prepare and give to the new officer a list of reports that must be filed in January and February of the new year. The outgoing official should offer his assistance in preparing such reports and in reconciling the depository accounts for the end of the year.

Among the reports that may be required to be filed by your unit are Withholding Tax, Social Security, Public Employees' Retirement Fund Contributions, Annual Report, Annual Operational Report of Motor Vehicle Highway Fund, Report of Names, Addresses, Duties, and Compensation of Public Employees, Accounts Payable at December 31, Capital Assets at December 31.

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**POLITICAL AND PERSONAL EXPENDITURES PROHIBITED**

Governmental funds and assets should not be used in a manner unrelated to the functions and purposes of the governmental unit. This prohibition includes expenditures for political purposes, contributions to political campaigns, directly or indirectly which are not authorized by law. Public funds used for political or personal reasons shall be the personal obligation of the responsible official or employee.

**EXCESS TAX COLLECTED – SURPLUS TAX FUND – UNCLAIMED FUNDS**

Any payments in excess of the taxes and special assessments actually due, as shown on the tax duplicate or special assessment records, shall constitute a special fund to be known as a "surplus tax fund." Amounts placed in such fund shall first be applied to delinquent taxes in the manner set forth in IC 6-1.1-23-5(b). The taxpayer may then file a verified claim for money remaining in the surplus tax fund. The county treasurer or county auditor shall require reasonable proof of payment by the person making the claim. Any amounts remaining shall be disbursed to the party entitled thereto, on the warrant of the county auditor after approval of such claim by the county auditor and the treasurer.

Not less frequently than at the time of each semiannual settlement, the treasurer shall prepare a schedule on County Form 65SFT, Surplus Tax Fund Ledger, of all excess payments received showing the name on the tax duplicate, the amount of the excess paid, and the taxing district, and deliver the schedule to the county auditor. Within fifteen (15) days after receiving the schedule, the county auditor shall review the schedule, and if the county auditor concurs with the schedule, the county auditor shall notify the county treasurer that the notice may be sent. The county auditor shall preserve the schedule and, if a refund is made thereafter, shall further note thereon the date and amount of each item refunded. In addition, when money is transferred from the surplus tax fund to the county general fund, the county auditor shall note the date and amount of the transfer on the schedule.

If an excess payment is not claimed within the three (3) year period after November 10 of the year in which it was paid and the county treasurer has given the written notice, the county auditor shall transfer such sum into the general fund of the county and it shall not thereafter be refunded. (IC 6-1.1-26-6) This type of "excess" collection is not to be confused with tax sale surplus items.

This subsection applies only if the amount of an excess payment is more than five dollars (\$5) and exceeds the amount applied to property taxes that are delinquent at the time that the excess payment is transferred to the surplus tax fund. Not later than forty-five (45) days after receiving the notification from the county auditor, the county treasurer shall give the taxpayer who made the excess payment written notice that the taxpayer may be entitled to a refund. The notice shall be mailed to the last known address of the taxpayer as listed on the tax duplicate of the most current record of the county treasurer. The notice must contain at least the following information:

- (1) A statement that the taxpayer may be entitled to a refund because the taxpayer made an excess payment.
- (2) The amount of the refund.
- (3) Instructions on how to claim the refund.
- (4) The date before which the refund must be claimed.
- (5) An explanation that the amount of the refund will be reduced by any amount applied to property taxes that are delinquent.

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**RESPONSIBILITY FOR ESTABLISHING VACATION, SICK LEAVE, PAID HOLIDAYS, AND OTHER SIMILAR BENEFITS**

IC 5-10-6-1(b) states: "Employees of the political subdivisions of the state may be granted a vacation with pay, sick leave, paid holidays, and other similar benefits by ordinance of the legislative body of a county, city, town, township, or controlling board of a municipally owned utility, board of directors or regents of a cemetery, or board of trustees of any library district."

It is imperative that the county adopt a policy regarding leave rules and other benefits. The State Board of Accounts will be auditing to see that the employees of the county are following the adopted policy.

**CLERKS OF THE CIRCUIT COURT – JUDGMENTS COLLECTED ON OVERWEIGHT VEHICLES**

The clerk of the circuit court shall receipt all overweight infraction judgments separately on the Clerks Official Receipt and post to a separate column labeled "Overweight Vehicles" in the Clerks Cash Book of Receipts and Disbursements. The clerk of the circuit court shall then remit such collections separately to the county auditor on a monthly basis on the Monthly Report - Clerk of the Circuit Court (Form 46CR).

The county auditor shall quietus the collections reported by the clerk of the circuit court to a separate fund entitled "Overweight Vehicles." Amounts quietused to this fund shall then be remitted semi-annually at settlement to the Auditor of State designated as overweight vehicle fines.

**REGISTRATION OF BAIL AGENT'S AND RECOVERY AGENT'S LICENSES**

IC 27-10-3-17 states: "(a) A bail agent may not become a surety on an undertaking unless the bail agent has registered the bail agent's license in the office of the sheriff and with the clerk of the circuit court in the county in which the bail agent resides. The bail agent may then become a surety in any other county upon filing a copy of the bail agent's license in the office of the sheriff and with the clerk of the circuit court in the other county. A surety bail agent must also file an original qualifying power of attorney signed by the bail agent and attached to a specimen bail bond with the clerk of the circuit court and file a copy of the qualifying power of attorney with the office of the sheriff. The clerk of the circuit court and the sheriff may not permit the registration of a bail agent unless the bail agent is currently licensed by the commissioner under this article.

(b) a recovery agent may not perform the recovery agent's duties unless the recovery agent has registered the recovery agent's license within fifteen (15) days of issuance or any renewal in the office of the sheriff and with the clerk of the circuit court in the county where the recovery agent resides. The clerk of the circuit court and the sheriff may not permit a registration unless the recovery agent is properly licensed by the commissioner under this article."

A fee for these registrations may be charged if a County enacts a home rule ordinance setting the fee in accordance with IC 36-1-3-1 et seq.

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**APPROPRIATIONS – INSURANCE CLAIM PROCEEDS**

IC 6-1.1-18-7 states: “Notwithstanding the other provisions of this chapter, the fiscal officer of a political subdivision may appropriate funds received from an insurance company if:

- (1) the funds are received as a result of damage to property of the political subdivision; and
- (2) the funds are appropriated for the purpose of repairing or replacing the damage property.

However, this section applies only if the funds are in fact expended to repair or replace the property within the twelve (12) month period after they are received.”

**APPROPRIATION REFUNDS**

IC 6-1.1-18-9 states: “Notwithstanding the other provisions of this chapter, the proper officer or officers of a political subdivision may:

- (1) reappropriate money recovered from erroneous or excessive disbursements if the error and recovery are made within the current budget year; or
- (2) refund, without appropriation, money erroneously received.”

**PETITION AND REMONSTRANCE PROCESS VS PETITION FOR A PUBLIC QUESTION PROCESS**

Both the petition and remonstrance process and the petition for a public question process are applicable for a controlled project. The deciding factor of which is to be used is based upon the cost of the project. The cost guidelines can be found under IC 6-1.1-20-3.1 for the petition and remonstrance and IC 6-1.1-20-3.5 for the public question. The State Board of Accounts prescribes the forms for both processes as follows:

Petition and Remonstrance phase I under IC 6-1.1-20-3.1 forms 201K-201N

Petition and Remonstrance phase II under IC 6-1.1-20-3.2 forms 201-201J, 201O

Public Question under IC 6-1.1-20-3.5 forms 202K-202N

These forms are to be used solely for these processes and not for other types of petitions. Per IC 6-1.1-20-3.1(b)(5) and IC 6-1.1-20-3.5(b)(5) the county voter registration office is to issue these forms to the petitioners upon their request. Please contact our office for copies of these forms and any questions on their implementation.

**ELECTION RESULTS**

Reminder to the Clerks of the Circuit Court to send us the results of your county's election as soon as possible after November 6, 2018, so that we may be in contact with the successful candidates regarding the State Board of Accounts newly elected official training.

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**DONATIONS**

It is our position that public funds cannot be donated or given to other organizations or individuals unless specifically authorized by law. We would not take exception to the County entering into a written contract or written grant agreement if the contract or grant serves a county purpose. Those decisions would be made by the county. If the county does not have the funding or does not find that the request serves a county purpose, the donation should not be made. We will also expect to see the claim documentation to state the county purpose.

**ELECTRONIC PAYMENT OF VENDOR CLAIMS**

Indiana Code 36-1-8-11.5 allows for the governing body of a political subdivision to pass a resolution that allows the fiscal officer to pay claims by electronic funds transfer. The statute also requires compliance with all other requirements for the payment of claims. Indiana Code 5-11-10-1.6 provides the requirements and procedures to be completed prior to issuing a check. Most of those requirements involve prior approval of a claim and ensuring that bills/invoices have been reviewed. Therefore, we recommend that if a county is going to make payments electronically, that they complete the claims approval requirements, and then work with their depository for a payment authorization process. Except for INPRS remittances as detailed in IC 5-10.2-2-12.5, we would recommend not setting up automatic monthly payments or other instances where vendors are giving access to pull money from the county's bank account.